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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

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COLORADO SPRINGS CO 80920

FISCHER, A
ART UNIT

PAPER NUMBER

3619
DATE MAILED:

12/18/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/475,173

Applicant(s)

Walter Ray Quick

Examiner

Andrew J. Fischer

Group Art Unit

3619



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-14 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-14 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with errors. Some examples follow:

- a. In claim 1, it is unclear whether the applicant is claiming the subcombination of a trailer or the combination of a trailer and a bicycle.

If the applicant's intent is to claim only the subcombination, the body of the claim(s) must be amended to remove any positive recitation of the combination. If the applicant intends to claim the combination, the preamble of the claim must be amended to be consistent with the language in the body of the claim.

It is the Examiner's position that the limitations "which are carried by the bicycle frame" are functional limitations which are given little patentable weight thereby placing any such positive structural limitations found within this phrase to be outside the claim's scope. In addition to the above, if Applicant(s) concur with the Examiner's position, the Examiner respectfully requests Applicant(s) to explicitly state their concurrence on the record. Upon receiving such concurrence, the 35 U.S.C. §112 second paragraph rejection will then be withdrawn.

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Alternatively, if Applicant(s) argue that the limitation should be given greater patentable weight requiring the Examiner to show the prior art having such structural features, the 35 U.S.C. §112 second paragraph rejection will be maintained.

b. Regarding claim 14, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

c. In claim 7, it is unclear if "a lower and upper side portion" is the same or different than the "upper side portions" as recited in claim 3.

Claim Rejections - 35 USC § 102 (b)

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States. . . .

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1 and 2, as understood by the Examiner, are rejected under 35 U.S.C. 102(e) as being anticipated by Dinkins (U.S. 6,042,128). Dinkins discloses an apparatus with the following: a trailer frame (figure 2) having two rectangular members, each rectangular member having opposite end portions which are centrally and pivotally attached to the opposite end portions of

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the other rectangular member; each rectangular member having a lower side portion extending generally horizontally along one lower side portion of the trailer and an upper side portion extending generally horizontally along an upper side portion of the trailer; spacing maintenance means extending between the two rectangular members (113B) extending between the two rectangular members; a tongue member (114A or 114B) having a rear end portion attached to a front end portion of the trailer frame with a central portion extending forwardly, and a front portion (all inherent); a releasable hitch (handle 114) having a bicycle frame mounting portion (114C) and a releasable portion which is attached to the front portion of the tongue (inherent), a trailer bottom portion (inherent) extending between the lower side portions of the rectangular frame members (figure 1); wheels (116) each rotatinly mounted to an opposite central portion of the lower side portion of the trailer frame; wherein the trailer frame comprises tubing (both square and round tubing in figure 1); the trailer bottom portion comprises fabric; a frame bag (120) which is position within the frame and sits on the trailer bottom portion; and the spacing maintenance means comprises a strap extending between a lower and upper side portion of the trailer.

5. Claims 14-16, as understood by the Examiner, are alternatively rejected under 35 U.S.C. 102(e) as being clearly anticipated by Caffey (U.S. 6,099,008). Caffey discloses an eccentric lever (in figure 1) which pulls on a shaft (the shaft connected to the lever) in given a quarter turn (the shaft pulls on the lever even if its a quarter, half, or even full turn); the frame mounted portion is adapted to be secured to a frame; and the trailer remains in an upright

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position. Because Applicant claims a hitch, it is the Examiner's position that neither the bicycle or the trailer are part of the claim.

6. Claims 14-16, as understood by the Examiner, are alternatively rejected under 35 U.S.C. 102(b) as being clearly anticipated by Novotny (U.S. 5,516,131).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3-7, as understood by the Examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dinkins in view of Patterson (U.S. 3,365,210). Dinkins discloses as discussed above and does not directly disclose breaks in the frame members. Patterson teaches breaks in rectangular frame members to provide compact storage (figure 4); a frame bag made of fabric (163) and has opposite top side portions which loop around the upper side portions of the upper side portions.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dinkins as taught by Patterson to include the following: the upper and lower side portions of the rectangular frame members of the trailer comprising breaks therethrough and wherein one end of the tubing adjacent to the break has a reduced diameter so

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that it may be inserted within the other end of the tubing adjacent to the beak so that the rectangular frame members may be joined and disassembled at the break; a frame bag made of fabric. Such a modification would have made cart more compact.

9. Claim 8-10, as understood by the Examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dinkins and Patterson. Dinkins and Paterson disclose as discussed above and does not directly disclose a top cover. The Examiner takes Official Notice that top covers with straps are old and well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dinkins and Patterson to include a top cover. Such a modification would have protected the contained from rain and snow.

10. Claim 11-13, as understood by the Examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dinkins and Patterson in further view of Novotny. Dinkins and Patterson discloses as discussed above and does not directly disclose an eccentric lever. Novotny discloses an eccentric lever (52) which pulls on a shaft (34) when the lever is given a quarter turn; the frame mounted portion is adapted to be secured to a bicycle frame by an axle an axle nut (figure 3); the hitch is configured so that the trailer remains in the upright position. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dinkins and Patterson as taught by Novotny to include an eccentric lever which pulls on a shaft when the lever is given a quarter turn; the frame mounted portion is adapted to be secured to a bicycle frame by an axle an axle nut; and a hitch configured so that the trailer remains in the upright position. Such a modification would have provided an easier connection of the two.

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Because Applicant claims a trailer, the Examiner interprets the claims to mean the bicycle is outside the scope of the claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure includes the following: Everett (U.S. 6,050,581); Robinson (U.S. 5,785,334); Hsu (U.S. 5,829,771); Chiu (U.S. 5,829,770); Eckroth (U.S. 5,687,980); Chiu (U.S. 5,669,618); Galasso et. al. (U.S. 5,242,178); Creps et. al. (U.S. 4,721,320); Robinson (U.S. 3,567,249); Robinson (U.S. 3,993,320); Robinson (U.S. 3,347,559); Schweigert (U.S. 5,070,687); Jacobsmeyer, Jr. (U.S. 6,062,412); Birdsell (U.S. 6,003,929); and Sury et. al. (U.S. 4,798,019).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Fischer whose telephone number is (703) 305-0292.


ANDREW J. FISCHER
PATENT EXAMINER


KEVIN HURLEY
PRIMARY EXAMINER

AJF
December 13, 2000